

§411.51

identification and an assessment of the effects of a housing assignment on the UC's health and safety. The care provider facility must consult a medical or mental health professional as soon as practicable on this assessment. The care provider facility must not base housing assignment decisions of transgender or intersex UCs solely on the identity documents or physical anatomy of the UC; a UC's self-identification of his/her gender and self-assessment of safety needs must always be taken into consideration as well. An identity document may include but is not limited to official U.S. and foreign government documentation, birth certificates, and other official documentation stating the UC's sex. The care provider facility's housing assignment of a transgender or intersex UCs must be consistent with the safety and security considerations of the care provider facility, State and local licensing standards, and housing and programming assignments of each transgender or intersex UCs must be regularly reassessed to review any threats to safety experienced by the UC.

Subpart F—Reporting

§411.51 UC reporting.

(a) The care provider facility must develop policies and procedures in accordance with §411.15 to ensure that UCs have multiple ways to report to the care provider: Sexual abuse and sexual harassment, retaliation for reporting sexual abuse or sexual harassment, and staff neglect or violations of responsibilities that may have contributed to such incidents. The care provider facility also must provide access to and instructions on how UCs may contact their consular official, ORR's headquarters, and an outside entity to report these incidents. Care provider facilities must provide UCs access to telephones with free, preprogrammed numbers for ORR headquarters and the outside entity designated under §411.51(b).

(b) The care provider facility must provide and inform the UC of at least one way for UCs to report sexual abuse and sexual harassment to an entity or office that is not part of the care provider facility and is able to receive and

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immediately forward UC reports of sexual abuse and sexual harassment to ORR officials, allowing UCs to remain anonymous upon request. The care provider facility must maintain or attempt to enter into a memorandum of understanding or other agreement with the entity or office and maintain copies of agreements or documentation showing attempts to enter into agreements.

(c) The care provider facility's policies and procedures must include provisions for staff to accept reports made verbally, in writing, anonymously, and from third parties. Staff must promptly document any verbal reports.

(d) All allegations or knowledge of sexual abuse and sexual harassment by staff or UCs must be immediately reported to the State or local licensing agency, the State or local Child Protective Services agency, State or local law enforcement, and to ORR according to ORR's policies and procedures.

§411.52 Grievances.

(a) The care provider facility must implement written policies and procedures for identifying and handling time-sensitive grievances that involve an immediate threat to UC health, safety, or welfare related to sexual abuse and sexual harassment. All such grievances must be reported to ORR according to ORR policies and procedures.

(b) The care provider facility's staff must bring medical emergencies to the immediate attention of proper medical and/or emergency services personnel for further assessment.

(c) The care provider facility must issue a written decision on the grievance within five days of receipt.

(d) To prepare a grievance, a UC may obtain assistance from another UC, care provider facility staff, family members, or legal representatives. Care provider facility staff must take reasonable steps to expedite requests for assistance from these other parties.

§411.53 UC access to outside confidential support services.

(a) Care provider facilities must utilize available community resources and services to provide valuable expertise

and support in the areas of crisis intervention, counseling, investigation, and the prosecution of sexual abuse perpetrators to most appropriately address a sexual abuse victim's needs. The care provider facility must maintain or attempt to enter into memoranda of understanding or other agreements with community service providers, or if local providers are not available, with national organizations that provide legal advocacy and confidential emotional support services for immigrant victims of crime. The care provider facility must maintain copies of its agreements or documentation showing attempts to enter into such agreements.

(b) Care provider facilities must have written policies and procedures to include outside agencies in the care provider facility's sexual abuse and sexual harassment prevention and intervention protocols, if such resources are available.

(c) Care provider facilities must make available to UC information about local organizations that can assist UCs who are victims of sexual abuse and sexual harassment, including mailing addresses and telephone numbers (including toll-free hotline numbers where available). If no such local organizations exist, the care provider facility must make available the same information about national organizations. The care provider facility must enable reasonable communication between UCs and these organizations and agencies in a confidential manner and inform UCs, prior to giving them access, of the extent to which such communications will be confidential.

§411.54 Third-party reporting.

ORR must establish a method to receive third-party reports of sexual abuse and sexual harassment and must make available to the public information on how to report sexual abuse and sexual harassment on behalf of a UC.

§411.55 UC access to attorneys or other legal representatives and families.

(a) Care provider facilities must provide UCs confidential access to their attorney or other legal representative in accordance with the care provider's

attorney-client visitation rules. The care provider's visitation rules must include provisions for immediate access in the case of an emergency or exigent circumstance. The care provider's attorney-client visitation rules must be approved by ORR to ensure the rules are reasonable and appropriate and include provisions for emergencies and exigent circumstances.

(b) Care provider facilities must provide UCs access to their families, including legal guardians, unless ORR has documentation showing that certain family members or legal guardians should not be provided access because of safety concerns.

Subpart G—Official Response Following a UC Report

§411.61 Staff reporting duties.

(a) All care provider facility staff, volunteers, and contractors must immediately report to ORR according to ORR policies and procedures and to State or local agencies in accordance with mandatory reporting laws: any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred while a UC was in ORR care; retaliation against UCs or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. ORR must review and approve the care provider facility's policies and procedures and ensure that the care provider facility specifies appropriate reporting procedures.

(b) Care provider facility staff members who become aware of alleged sexual abuse or sexual harassment must immediately follow reporting requirements set forth by ORR's and the care provider facility's policies and procedures.

(c) Apart from such reporting, care provider facility staff must not reveal any information related to a sexual abuse or sexual harassment report to anyone within the care provider facility except to the extent necessary for medical or mental health treatment, investigations, notice to law enforcement, or other security and management decisions.